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NEHEMIAH AVILA

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Case No.: 2:21-cr-00020-JAM-1

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NEHEMIAH AVILA,

Defendant.

SECOND STIPULATION AND ORDER
TO CONTINUE SENTENCING HEARING

Court: Hon. John A. Mendez
Date: December 9, 2025

This matter is currently set for a Sentencing Hearing on December 9, 2025. The Probation Department has completed and filed with the Court a Presentence Investigation Report (PSR) and Sentencing Recommendation. Defendant has filed a Motion for Correction (ECF Document 140). Defense counsel is not ready to proceed with the Sentencing Hearing on December 9, 2025, and requests to continue the hearing to January 27, 2026.

STIPULATION AND ORDER

1 Defendant Nehemiah Avila is released on pre-trial conditions and lives at his mother's
2 house in Sacramento. He is currently employed and contributes to the support of both his
3 common law wife and minor daughter. Defense counsel intends to present various medical and
4 mental health records and reports relating to Mr. Avila's care for his family members in support
5 of the defense sentencing request. The written plea agreement between the parties permits Mr.
6 Avila to urge whatever sentence he and his counsel deem appropriate, subject to the statutory
7 mandatory minimum sentence (ECF Document 122).
8

9 As of early July 2025, and continuing to November 20, 2025, defense counsel has not
10 received payment for any of his federal appointed cases. Congress failed to approve a timely
11 supplemental funding measure to pay attorneys, investigators, and experts working on matters
12 pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A (hereafter "CJA"). The funding lapse
13 continued into the beginning of the 2026 fiscal year on October 1, 2025. A government
14 shutdown ensued from October 1, 2025, through November 13, 2025 – making it the longest
15 federal government shutdown in U.S. history.
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18 The President signed a continuing resolution on November 13, 2025. The continuing
19 resolution authorizes payment for past due vouchers submitted by CJA counsel and service
20 providers. It also funds CJA through January 30, 2026. Due to the backlog in processing CJA
21 payments, defense counsel and his investigator have yet to receive any back payments as of
22 November 20, 2025. Back payments for existing services are not anticipated to be processed
23 until as late as the week of December 1, 2025.
24

25 The practical result of the funding situation is that appointed counsel and the investigator
26 are left with insufficient time following resumption of long overdue back payments to complete
27 mitigation investigation. Defense counsel therefore requests to continue the Sentencing Hearing
28

1 to January 27, 2025, at 9:00 a.m.

2 The assigned probation officer has confirmed her availability on the requested date. The
3 defense further requests to modify the remaining Pre-Sentence Investigation Report (PSR)

4 Disclosure Schedule as follows:

5
6 **1. Reply Date/Sentencing Memorandum Date: January 20, 2026**

7 Defense counsel believes that the current CJA funding situation constitutes good cause
8 for the request. The request follows a guilty plea so an exclusion of time pursuant to the Speedy
9 Trial Act is not required. The government does not oppose the request because the procedural
10 posture of the case does not impact on the public's interest in a speedy trial. Assistant U.S.
11 Attorney Adrian Kinsella has authorized Todd D. Leras via email to sign this unopposed
12 sentencing hearing continuance request on his behalf.
13
14

15 DATED: November 24, 2025

16 By /s/ Todd D. Leras for
17 ADRIAN KINSELLA
18 Assistant United States Attorney

19 DATED: November 20, 2025

20 By /s/ Todd D. Leras
21 TODD D. LERAS
22 Attorney for Defendant
23 NEHEMIAH AVILA
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ORDER

GOOD CAUSE APPEARING BASED ON THE REPRESENTATIONS OF DEFENSE COUNSEL, the Sentencing Hearing, set for December 09, 2025, is **VACATED** and RESET for **January 27, 2026, at 9:00 a.m.** The PSR Disclosure schedule is **MODIFIED** as set out in the Continuance Request.

IT IS SO ORDERED.

Dated: November 25, 2025



JOHN A. MENDEZ,
SENIOR UNITED STATES DISTRICT JUDGE